

REMARKS

Claims 1-17 and 25-32 are pending in the Application.

Claim 25 has been amended in order to remove the language the Office found unsupported. Thus, it is submitted, the rejection under 35 U.S.C. 112 is now obviated. Similarly the rejections under 35 USC 112 to claims 26 - 29, which depend from claim 25, are also obviated.

Claims 1-6, 9-11, 13-17 and 25-29 are rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Morman (U.S. Patent No. 5,336,545.) The Office's position is predicated upon what the Examiner claims are similarities between the materials of the present claims and Morman as well as similarities between "production steps" of the present disclosure and Morman (paragraph 8 of the Office Action.) These similarities, the Office asserts, result in similar or even identical materials. Specifically, the Office asserts, the ultimate force to break values of the present claims must be presumed to be present in Morman because of the alleged similarities in materials and "production steps."

The rejection is respectfully traversed for two reasons. First, Applicant submits that the Office's remarks re: "production steps" are incorrect. Second, the Office is incorrect in asserting that the ultimate force to break values of the present claims must be presumed to be present in Morman because of the alleged similarities in materials and "production steps."

Applicant first objects to the Examiner's use of the term "production steps." As the Examiner knows, the use of the word "steps" may be prejudicial in implying a certain

order for a process. Applicant does not agree that any order is necessarily required in the production process of the present claims, and so, does not agree that the word "steps" is appropriate to describe production processes of the present claims.

Moreover, Applicant does not agree with the Office position that the production process of the present claims and Morman are similar. There is no necking, in the sense used in Morman, in the present claims. Morman, it is important to note, in his definitions, makes very clear that necking (or his necked material) is the process of applying a *tensioning force*: "the term 'necked material' refers to any material which has been narrowed in at least one dimension by application of a tensioning force." Col. 3, lines 8-10. The drive rollers of Figure 1 (20 and 22) apply that tensioning force to the nonwoven in Morman, thus "necking" the material and providing a necked material.

In contrast, the nonwoven of the present claims does not undergo the tensioning force taught by Morman. Rather the nonwoven is consolidated.

Thus, it is submitted, the Office's position regarding "production steps" is incorrect. There are no steps, and the production processes are different.

The need for a correct evaluation of the production processes is important because any processes used bear directly on the Office's assertion that the ultimate force to break values of the present claims must be presumed to be present in Morman. As the enclosed Declaration of James W. Cree,¹ an inventor on the present application makes clear, the Morman process is likely to *weaken* the nonwoven, since it applies a tensioning force to the nonwoven and so likely weakens the bonds between the fibers of the nonwoven. In

¹ Applicant does not agree with the Office's position regarding burden of proof on this point, but, in order to remove the issue, offers the enclosed declaration of Mr. Cree as proof.

contrast, the nonwoven of the present claims is likely to be *strengthened* as a result of consolidation. *Id.* Thus, any laminate taught by Morman is likely to be *weaker* than a non tensioned nonwoven laminate, and any laminate as per the present claims is likely to be *stronger* than a nontensioned nonwoven laminate.

The differences between Morman and the claims at issue, therefore, make the claims allowable. The ultimate force to break values of the claims at issue cannot be presumed to be present in Morman because Morman *weakens* his nonwoven during production.

Applicant notes the Examiner's additional remarks regarding claims 3, 4, 5, 6, 10, 13, and 15-17, however, as they depend from allowable base claim 1, Applicant submits they are allowable as well.

Claim 25 has also been rejected under Morman. Insofar as Morman does not disclose nonwoven consolidation, but rather application of a tensioning force, Applicant does not believe the Office is correct in rejecting the claim over Morman. Applicant is unable to find any suggestion or teaching or disclosure of a consolidation of the nonwovens in Morman. Therefore, Applicant does not believe the rejection of the claim is warranted, and requests the allowance of claim 25. Moreover, as noted above and in the Declaration of Mr. Cree, the Morman process will likely lead to a different, i.e., weakened, nonwoven, in contrast to the present claims. Claim 29, as it depends from allowable base claim 25, is allowable as well.

With all due respect therefore, Applicant respectfully requests the withdrawal of the rejection to Claims 1-6, 9-11, 13-17 and 25-29 under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Morman

(U.S. Patent No. 5,336,545) and allowance of those claims.

Although new claims 30-32 have not been previously addressed in this proceeding, it is submitted that they too are allowable. As was noted above, Morman's process weakens his nonwoven. Thus any laminate produced by the Morman tensioning force process is weakened as well, when compared to a non-processed nonwoven, because it is reasonable to believe that a combination of weakened nonwovens would have at least some overlapping regions of weakened nonwovens. (see the Declaration of Mr. Cree, enclosed.) In contrast, combining nonwovens as, for example, in the present claims, leads to a strengthened laminate, with the resultant strength being additive, that is, being a result of adding strengthened nonwovens. Accordingly, it is submitted, claims 30-32 are allowable.

Claims 25-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morman in view of Hassenboehler et al. (U.S. Patent No. RE 35,206). The amendment to base claim 25 cures the indefiniteness objected to by the Office. The Office also asserts that the two references could be combined. But there is no teaching nor suggestion nor disclosure in either reference that they could be combined as the Office suggests, and the Office's position that they could is impermissible hindsight reconstruction. Moreover, as noted above, Morman does not teach a similar process to the present claims.

Therefore, Applicant respectfully requests the withdrawal of the rejection to claims 25-29 and allowance of those claims.

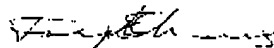
Claims 7, 8 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morman in view of Haffner et al. (U.S. Patent No. 5,789,065). Applicant

respectfully traverses the rejection. Insofar as claims 7, 8 and 12 depend from allowable base claim 1, it is submitted they too are allowable. Therefore, Applicant respectfully requests the withdrawal of the rejection to Claims 7, 8 and 12 and allowance of those claims.

CONCLUSION

Therefore, for the reasons given above, Applicant submits the application is now in condition for allowance and Applicant respectfully requests early issuance of the Notice of Allowance.

Respectfully submitted,



Joseph E. Chovanes
Registration No. 33,481
Suite 329
5 Great Valley Parkway
Malvern, PA 19355
(610) 648-3994